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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

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| 10 UNITED STATES OF AMERICA, |) | 2:09-CR-078-JCM-(RJJ) |
| |) | 2:10-CR-520-JCM-(RJJ) |
| 11 Plaintiff, |) | |
| |) | GOVERNMENT'S RESPONSE TO |
| 12 vs. |) | DEFENDANT'S MOTION TO |
| |) | DISMISS - CR # 27 |
| 13 SHAWN RICE, |) | |
| |) | |
| 14 <u>Defendant.</u> |) | |

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16 COMES NOW the United States of America, by and through DANIEL G.
17 BOGDEN, United States Attorney, and J. Gregory Damm and Nicholas D. Dickinson,
18 Assistant United States Attorneys and hereby submits GOVERNMENT'S RESPONSE
19 TO DEFENDANT'S MOTION TO DISMISS THE PLEADINGS AND
20 INDICTMENT ISSUED BY THE GOVERNMENT WITH PREJUDICE FOR LACK
21 OF STANDING AND NO REAL PARTY IN INTEREST - CR # 27.

22 On March 3, 2009, petitioner was indicted and charged with one count of
23 conspiracy to commit money laundering pursuant to 18 U.S.C. § 6156 (h), thirteen
24 counts of money laundering pursuant to 128 U.S.C. § 1656(a)(3)(A), and aiding and
25 abetting.
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1 Defendant contends that the U.S. Attorney lacks jurisdiction over him because
2 Congress has only conferred legal standing on the "United States" to charge under 28
3 U.S.C. §§ 1345-46, and he was charged by the "United States of America."
4 Additionally, petitioner claims that the "United States of America" is a third party
5 "enterloper" and has no standing. The distinction petitioner draws between the "United
6 States of America" and "United States" has no merit. Petitioner's claims are frivolous
7 and should be summarily denied.

8 It is beyond dispute that each U.S. Attorney has the legal authority to "prosecute
9 for all offenses against the United States" taking place within his district, including
10 those in 28 U.S.C. §§ 1345-46. 28 U.S.C. § 547; *States v. Forman*, 71 F.3d 1214, 1219
11 (6th Cir. 1995) ("It is clear that Congress and the laws of the United States provide for
12 the appointment of the United States attorney and AUSA's, and that they are required
13 by statute to prosecute offenses against the laws of the United States."); *Nadler v.*
14 *Mann*, 951 F.2d 301, 305 (11th Cir. 1992) ("A United States Attorney, appointed by
15 the President and confirmed by the Senate, is the chief federal law enforcement official
16 for the judicial district he serves and is responsible for the prosecution of all offenses
17 against the United States within his district.")

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1 Defendant's contentions that he is outside the jurisdictional reach of the U.S.
2 Attorney and the laws of the United States because petitioner was charged by the
3 "United States of America", and not the "United States", and his claim that the "United
4 States of America" is a third party "enterloper" are entirely frivolous and without legal
5 basis. Thus, on the merits, Defendant's claims should be denied.

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7 DATED this 27th day of June, 2012.

8 Respectfully submitted,

9 DANIEL G. BOGDEN
10 United States Attorney

11 /s/ J. Gregory Damm

12 J. GREGORY DAMM
13 Assistant United States Attorney

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15 /s/ Nicholas D. Dickinson

16 NICHOLAS D. DICKINSON
17 Assistant United States Attorney
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Certificate of Service

I, Pamela Mrenak, hereby certify that I am an employee of the United States Department of Justice, and that on this day I served a copy of the following: GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS THE PLEADINGS AND INDICTMENT ISSUED BY THE GOVERNMENT WITH PREJUDICE FOR LACK OF STANDING AND NO REAL PARTY IN INTEREST - CR # 27, upon counsel for all defendants appearing in this matter via the CM/ECF system, by electronically filing said GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS THE PLEADINGS AND INDICTMENT ISSUED BY THE GOVERNMENT WITH PREJUDICE FOR LACK OF STANDING AND NO REAL PARTY IN INTEREST - CR # 27 and mailing a copy postage prepaid to Shawn Talbot Rice, P.O. Box 700, #81, Ash Fork, Arizona 86320 and to Shawn Talbot Rice, Inmate # 43739-048, Nevada Southern Detention Center, 2190 E. Mesquite Ave., Pahrump, NV 89060-3427.

Dated: June 27, 2012

/s/ Pamela J. Mrenak
Legal Assistant to J. Gregory Damm
Assistant United States Attorney
District of Nevada